

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ALVIN THURMAN,

Plaintiff,

vs.

ST. ANTHONY'S HOSPITAL,

Defendant.

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Case No. 4:10cv2226 TCM

MEMORANDUM AND ORDER

This pro se employment discrimination case is before the Court on the motion of Plaintiff for appointment of counsel. Plaintiff alleges in his complaint that he was discriminated against when being terminated from his employment with Defendant on the basis of his race, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) to 2000e(17), and in retaliation for being promoted to supervisor. Plaintiff alleges in his pending motion that he has been unable to retain counsel because of his poverty. Plaintiff is proceeding in forma pauperis.

"There is no constitutional or statutory right to appointed counsel in civil cases." **Phillips v. Jasper County Jail**, 437 F.3d 791, 794 (8th Cir. 2006). "The relevant criteria for determining whether counsel should be appointed include the factual complexity of the issues, the ability of the indigent person to investigate the facts, the existence of conflicting testimony, the ability of the indigent person to present the claims, and the complexity of the legal arguments." **Id.** Consideration of these criteria at this stage of the proceedings militates against appointing Plaintiff counsel. Neither the facts nor the legal issues appear

to be complex. Discovery has not yet begun so there is no conflicting testimony. See id. Nor is there any indication that Plaintiff's current lack of participation in the case he initiated is due to any inability to investigate or present his case as opposed to a lack of interest.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion for appointment of counsel is **DENIED** without prejudice. [Doc. 4]

/s/ Thomas C. Mummert, III

THOMAS C. MUMMERT III
UNITED STATES MAGISTRATE JUDGE

Dated this 25th day of February, 2011.